3227

SUPREME COURT OF THE UNITED STATES.

No. 101.

THE UNITED STATES, PLAINTIFFS,

vs.

WILLIAM G. SHACKLEFORD.

ON A CERTIFICATE OF DIVISION IN OPINION BETWEEN THE JUDGES OF THE CIRCUIT COURT UNITED STATES FOR THE DISTRICT OF KENTUCKY.

INDEX.

	Original.	Print.
Caption	1	1
Style of suit	1	1
Grand jury appeared	1	1
Indictment returned	2	1
Indictment	2	1
Capias	3	2
Marshal's return	4	2
Time fixed for trial	4	2
Continuance	4	3
Arraignment and plea	5	3
Jury called	5	3
Question upon challenge	5	3
Prisoner admitted to bail	5	3
Recognisance of bail	6	3
Statement of points of difference between the judges	6	4
Clerk's certificate	7	4

GIDEON, printer.

Caption.

Proceedings of the circuit court of the United States of America for the district of Kentucky, at the regular term begun and held at the capitol, in the town of Frankfort, on Monday the 21st day of May, A. D. 1855. Present, the honorable John Catron, associate justice of the Supreme Court of the United States, and Thomas B. Monroe, judge of the United States for the district of Kentucky.

Style of suit.

THE UNITED STATES OF AMERICA, plaintiff,
against
WILLIAM G. SHACKLEFORD, defendant.

Upon indictment for deserting the mail of the United States.

October term, 1854

MONDAY, *October* 16*th*, 1854.

The grand jury summoned and returned by the marshal, according to the order of the court at its last term, on this day having been called, appeared.

Grand jury.

Jeptha Dudley, A. Tarbell, T. J. Woodward, Daniel Polk, Stephen H. Miles, Thomas Blakemore, A. J. Ewing, T. P. Young, Allen Gudgel, Reuben Harper, Woodson B. Power, Russell Noland, C. J. Boyd, James Shannon, Henry Giltner, William French, Samuel Scofield, Thomas Jett, G. S. Macy, John Baltzell, Leroy Wooldridge, F. T. Hayden, and Robert Thompson, of their number were elected, and Jeptha Dudley was appointed by the court the foreman. Whereupon the oath was administered to him and them, and the court having delivered them the charge, the grand jury retired to consider of the matters given in charge and of them required.

Indictment returned.

TUESDAY, *October* 17, 1854.

The grand jury returned into court the following indictment, viz:

Indictment.

UNITED STATES OF AMERICA,
Eighth circuit, district of Kentucky, ss:

The grand jurors of the United States of America, empanneled at the October term of the court of the said United States, in the year of Christ one thousand eight hundred and fifty-four, and sworn and charged to inquire for the body of the said district, upon their oaths present:

That William G. Shackleford, late of the county of , in said district, laborer, heretofore, that is to say, on the twenty-seventh

day of April, in the year of Christ one thousand eight hundred and fifty-four, in the district aforesaid, and within the jurisdiction of this court, being a person then and there engaged as a stage-driver, and carrying the mails between Bowling Green and the Three Forks post office, and having then and there taken charge of the mails of the United States, and having the same in his custody, did then and there unlawfully quit and desert the said mails, before he had delivered the same into any post office, or to any known mail-carrier, or to any person authorized to receive the same, against the peace and dignity of the United States, and contrary to the form of the statute in such cases made and provided.

C. C. ROGERS,
U. S. atto., dist. of Ky.

Endorsed—"A true bill.

J. DUDLEY, *Foreman.*"

Capias.

Whereupon there issued the following capias:

[L. S.] The United States of America, to the marshal of the Kentucky district, greeting:

You are hereby commanded to take William G. Shackleford, if he be found within your bailiwick, and him safely keep, so that you have his body before the judges of our eighth circuit court of the United States of America, in and for the district of Kentucky, at the capitol in Frankfort, forthwith, to answer the United States of America upon an indictment for deserting the mail of the United States. And have then there this writ.

In testimony whereof, Roger B. Taney, esq., chief justice of the Supreme Court of the United States of America, hath caused the seal of our said court to be hereunto affixed, this 17th day of October, A. D. 1854, and in the 79th year of our independence.

Attest: JOHN A. MONROE,
C. C. C. K. D.

Return.

On which the marshal made the following return:

Executed according to the within writ, and I here deliver the body of the said William G. Shackleford in court, 18th October, 1854.

JAS. T. YOUNG, *D. M.*
For THO'S J. YOUNG, *M. D. K.*

WEDNESDAY, *October 18th,* 1854.

This day came the attorney for the United States, C. C. Rogers, esq., and the accused, William G. Shackleford, was brought to the bar in the custody of the marshal, having for his counsel James Harlan, esq.

Time fixed for trial.

Whereupon, on the motion of the attorney for the United States, (C. C. Rogers, esq.,) the third Monday in November next is fixed for the trial of this cause.

The prisoner remains in the custody of the marshal.

Continued.

WEDNESDAY, *November 29th*, 1854.

This day came the attorney for the United States, C. C. Rogers, esq. The accused, William G. Shackleford, was brought to the bar in the custody of the marshal, having for his counsel John M. Harlan, esq.; whereupon, on motion of the attorney of the United States, it is ordered that this cause be, and the same is, continued until the next term of this court. The prisoner remains in the custody of the marshal.

SATURDAY, *May 26th*, 1855.

This day came the attorney for the United States, C. C. Rogers, esq., and the accused, William G. Shackleford, in proper person appeared in court, in conformity to the first requirement of the condition of his recognisance, having for his counsel Ben. C. Grider, James Harlan, C. S. Morehead, and John M. Harlan, esqrs.

Arraignment.

Whereupon, it being demanded of the accused, William G. Shackleford, of and concerning the charges in the said indictment above specified and charged upon him, how he would acquit himself thereof, he said that he is not guilty thereof, and for his trial he puts himself upon the country.

And C. C. Rogers, attorney for the United States, doth the like.

Jury ordered.

Therefore, let a jury here immediately come of good and lawful men, &c.; and, thereupon, came a jury and were arrayed.

Challenge demanded.

But a question occurred on the peremptory challenge of one of the jurors, upon which the judges being opposed in opinion, upon the request of the counsel of the accused, it was ordered that the point of disagreement be stated, and certified to the Supreme Court for its decision. And time was taken for the preparation of the statement.

Continued.

Whereupon, it was ordered that this cause be continued until the next term of this court.

Prisoner admitted to bail.

On motion of the accused, it was ordered that he be admitted to bail on his entering into recognisance with David R. Haggard, his surety, jointly and severally, in the penal sum of five hundred dollars ($500.)

Recognisance of bail.

Whereupon, William G. Shackleford and David R. Haggard, in open court acknowledged themselves to be jointly and severally indebted

to the United States of America in the just and full sum of five hundred dollars ($500,) to be levied of their goods and chattels, lands and tenements, to the use of the United States to be rendered; but to be void, on the condition that the said William G. Shackleford shall make his personal appearance in this court on the first day of the next term thereof, and surrender himself in custody to answer the United States upon a charge of deserting the mail, for which he stands indicted in this court; and not depart without leave of the court.

Statement of point of disagreement.

The statement of the point upon which the disagreement of the judges happened having been made, is in these words:

Question of difference.

In the progress of the trial of this cause, and, after the jury had been in part selected, and other jurors were presented to the prisoner, he peremptorily challenged one of them, when the question arose, whether the defendant was entitled to any peremptory challenges; on which question the judges were divided in opinion. Whereupon, the point of division, and the grounds thereof, are ordered to be certified to the Supreme Court of the United States, for its opinion and direction to this court on the case certified.

And the cause was continued, to await the instructions of the Supreme Court.

J. CATRON.

UNITED STATES OF AMERICA,
8th circuit and Kentucky district, ss:

I, John A. Monroe, clerk of the circuit court of the United States for the 8th circuit and Kentucky district, hereby certify, that the foregoing seven pages (this included) contain a full, true, and complete transcript of the record and proceedings had in the case therein mentioned, of the United States against William G. Shackleford, upon indictment for deserting the mail of the United States.

In testimony whereof, I have hereunto subscribed my name, and affixed the seal of my office, this 15th day of September, A. D. 1855.

[L. S.]

JOHN A. MONROE,
C. C. C. K. D.